



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 6

SCULLY, SCOTT, MURPHY & PRESSER
400 Garden City
Garden City, NY 11530

COPY MAILED

AUG 16 2004

In re Application of	:	OFFICE OF PETITIONS
Kevin J. Reardon	:	
Application No. 09/933,602	:	CORRECTED DECISION
Filed: August 21, 2001	:	ON PETITION
Attorney Docket No.	:	
FIS920010165US1 (14775)	:	

This is a corrected decision on the petition under 37 CFR 1.137(a), filed April 23, 2004, to revive the above-identified application. The petition is properly treated under 37 CFR 1.181.

The petition is **granted.**

The above-identified application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application, mailed September 24, 2001. The Notice set a two (2) month period for reply. No reply having been received, the above-identified application became abandoned November 25, 2001. A Notice of Abandonment was mailed on December 17, 2003.

Applicant's Assertion

Applicant asserts that a timely reply to the Notice, in the form of a Declaration and late filing fee oath or declaration surcharge, were timely filed and received in the Office on November 7, 2001. In support of this assertion, Applicant provides, *inter alia*, a copy of the Response to Notice to File Missing Parts of Application and a Declaration, which contain a properly executed Certificate of Mailing dated November 7, 2001 and copies of a return-receipt postcards dated November 7, 2001, and acknowledging receipt by this Office of a Declaration and a Response to notice of missing parts on February 5, 2002.

Under 37 CFR 1.8

"[c]orrespondence required to be filed in the Patent and Trademark Office within a set period of time will be considered timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

(1) Correspondence will be considered as being timely filed if:

(i) The correspondence is mailed or transmitted prior to the expiration of the set period of time by being:

(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage first class mail; or

(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and

(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

In view of the foregoing, the holding of abandonment is hereby withdrawn.

A refund of the extension-of-time fees, \$950.00, has been credited to deposit account 09-0458 as authorized in the petition filed April 23, 2004.

A copy of the Assignment documents have been forwarded to the Assignment Branch.

The application is being returned to the Office of Initial Patent Examination for continued processing in due course.

Telephone inquiries should be directed to the undersigned at
(703) 305-0014.



Derek L. Woods
Petitions Attorney
Office of Petitions